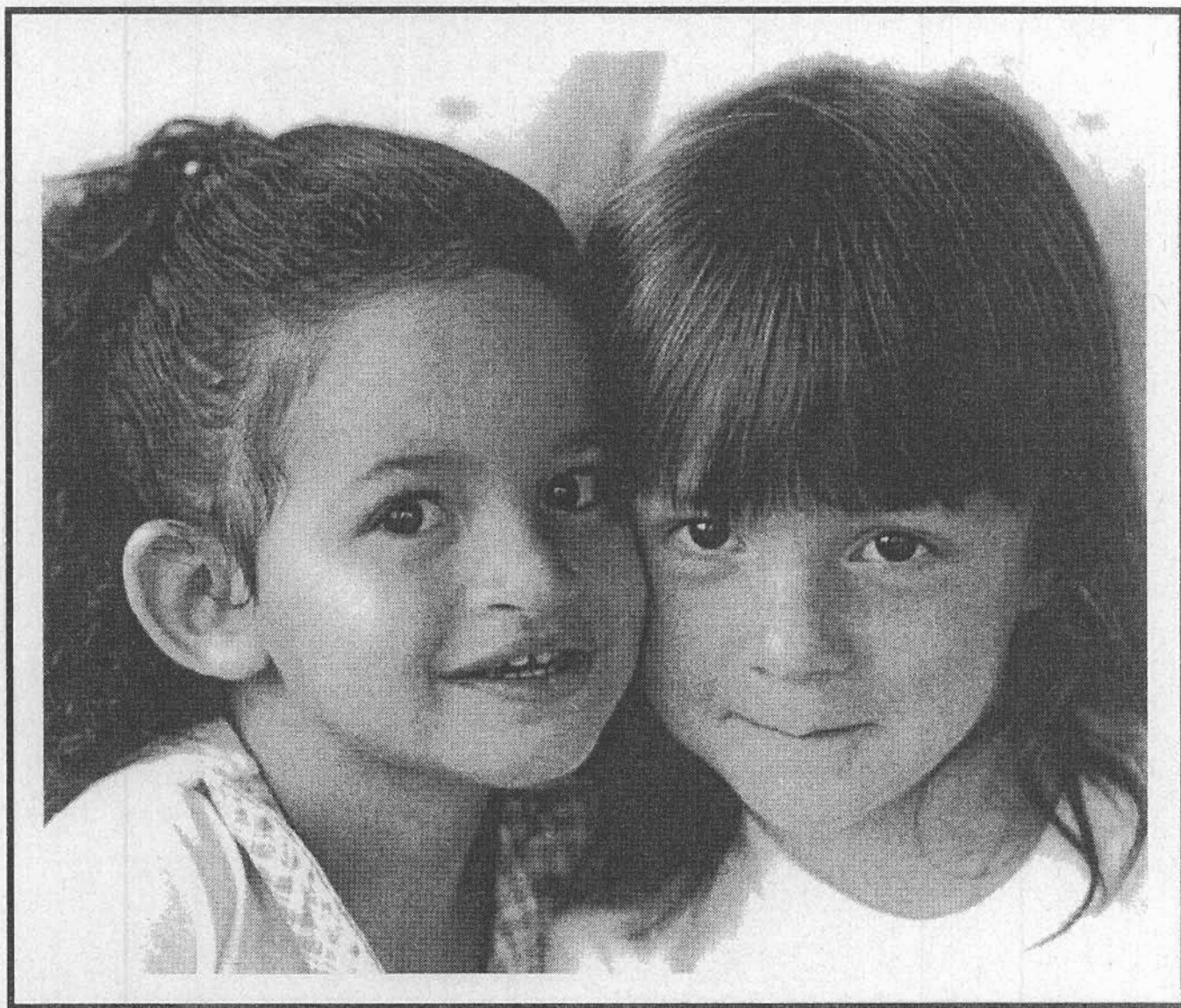


THE EQUAL ACCESS FUND

A WISE INVESTMENT



CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

EQUAL ACCESS FUND A WISE INVESTMENT

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The Commission is committed to significantly improving access to our legal system. It is a broad-based group of lawyers, judges, and civic leaders appointed by the Governor, both houses of the Legislature, the Attorney General, Judicial Council, State Bar, California Judges Association, the Chamber of Commerce, the Council of Churches, the League of Women Voters, Consumer Attorneys of California, and the Labor Federation.	

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

c/o State Bar of California - 180 Howard Street - San Francisco, CA 94105 - (415) 538-2251 - (415) 538-2529/fax

November, 2000

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Special Assistant
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Dear Colleague:

The California Commission on Access to Justice has compiled this report to describe the valuable work made possible by California's Equal Access Fund. Yet there remains an enormous unmet need for civil legal assistance among poor Californians. For this reason, we are urging that the Legislature and Governor Gray Davis increase this year's appropriation for the Equal Access Fund.

Our bipartisan and multi-disciplinary Commission was established in 1997 to address the issues preventing equal access to justice for the poor and middle-class in California. Our Board includes appointees from the Office of the Governor, the California Judicial Council, State Bar of California, California Judges Association, Consumer Attorneys of California, California Chamber of Commerce, California Council of Churches, California Labor Federation, League of Women Voters, the Attorney General, the Speaker of the Assembly and the President Pro Tem of the Senate.

Studies reveal that *the civil legal needs of millions of low-income Californians are not met at all*, and that the needs of others are met only partially. Those Californians who often need legal representation on matters critical to their survival include battered women, children, the disabled, the elderly, families in need, the homeless, and victims of crime.

Prior to 1999, California provided no state funding for legal services. In 1999, California became the 38th state to provide funding to support civil legal services. In that year, and in FY 2000, the Legislature and Governor Gray Davis approved \$10 million for the Equal Access Fund. This is an important first step toward meeting the need. However, because of the size of our population, this appropriation amounts to an expenditure of less than \$2.00 per poor person in California, in contrast to a number of other states which appropriate many times that amount. Unfortunately, this funding cannot meet the need for legal services among the majority of California's poor. Additional funding is necessary to move us toward our goal of access to our legal system for all Californians, regardless of income.

We hope the 2001-2002 state budget will include a substantial increase in the amount provided for the Equal Access Fund, an increase supported by both the California Judicial Council and the State Bar of California. After reviewing these documents we believe you will agree that ensuring the continuation and expansion of this fund is an important goal for all Californians.

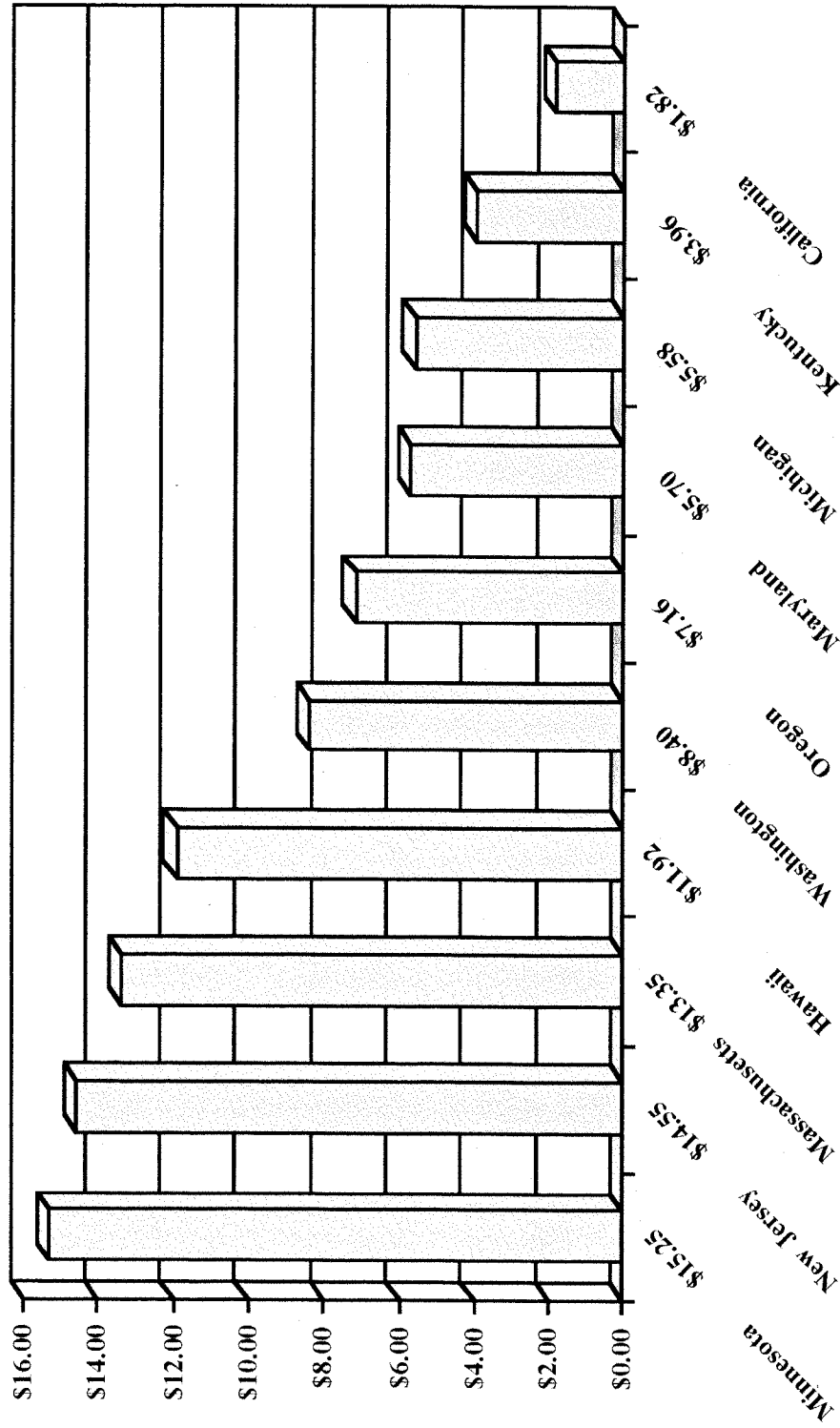
Sincerely,

Hon. James R. Lambden
Chair, California Commission on Access to Justice

Harvey I. Saferstein
Funding Committee Chair, California Commission on Access to Justice

COMPARISON OF STATE FUNDING FOR LEGAL SERVICES PER POOR PERSON

The following graph compares several states' financial contribution to legal services to the poor, comparing how much they provide per poor person.*



*This information is based on data compiled by the ABA and the Census Bureau. Although the indigent are eligible for legal services if they make 125% of the federal poverty income guidelines, this chart uses 100% of poverty based on 1996 data because that is the most recent information available. The chart includes current funding levels. Each state's amount per poor person will be adjusted accordingly when the complete breakdown of the 2000 census figures is available.

THE EQUAL ACCESS FUND

A WISE INVESTMENT

The Equal Access Fund supports essential legal assistance to California's poor.

In 1999 California became the 38th state to provide funding for free civil legal services to our poorest citizens. Established by a state appropriation, the Equal Access Fund has helped

- battered spouses seeking freedom from violence;
- families trying to secure benefits for disabled children;
- elderly victims of home equity fraud;
- grandparents trying to become guardians for grandchildren;
- homeless veterans seeking job training and health benefits they qualify for but do not receive.

Yet the funding level of the Equal Access Fund lags behind the need, at great cost to individuals compelled to go without help, and to society at large.

Preventive legal aid can save taxpayers money and benefit the entire society.

- Legal aid promotes the peaceful resolution of disputes. Law enforcement representatives support the Equal Access Fund because it promotes healthy communities and stable families, in turn avoiding violence and reducing crime.
- Legal aid offices supplement civil law enforcement efforts with services that county prosecutors cannot always provide, such as protecting the elderly against home equity fraud.
- Self-help centers run by legal services programs prepare unrepresented parties for hearings – saving court time.
- Preventing an illegal eviction and resulting homelessness greatly benefits society. A legal aid program can prevent homelessness at a fraction of the cost of the public funds and charitable contributions it would take to care for that person in a homeless shelter.

THERE IS BROAD PUBLIC SUPPORT FOR FUNDING LEGAL SERVICES:

A recent national poll found that 82% of the American public support government funding of legal services for the poor. A partial list of supporters includes:

- Chief Justice Ronald George
- Senate President Pro Tem
John Burton
- Assembly Speaker
Robert Hertzberg
- Assembly Judiciary
Committee Chair
Darrell Steinberg
- Senate Judiciary Committee
Chair Martha Escutia
- Senator Elect Sheila James
Kuehl

- Assembly Member
Dion Aroner
- Sheriff Leroy D. Baca
- Sheriff Michael Hennessey
- Dan Terry, California
Firefighters
- District Attorney
Tony Rackauckas
- District Attorney
Thomas J. Orloff
- Rabbi Uri D. Herscher

- Rabbi Harold M. Schulweis
- Cardinal Roger Mahony, D.D.
- Richard Ziman
- Daphna Ziman
- Bruce G. Whitmore
- John A. Schulman
- Dr. Dale R. Laurance
- Bruce A. Karatz
- Bryant C. Danner
- Karen Randall
- Palmer Brown Madden

The Equal Access Fund is distributed fairly and efficiently through an existing statutory formula.

The California Judicial Council distributes the Equal Access Fund through the State Bar's Legal Services Trust Fund Program.

Ninety percent of the fund is distributed according to an existing statutory formula to 100 local nonprofits that provide free civil legal services to the indigent.

New Court/Legal Services Partnership Projects receive ten percent of the fund to set up self-help centers for low-income litigants without lawyers.

Legal Services provide essential support for bipartisan policy initiatives and priorities.

In recent years, elected officials have designed programs, appropriated funds and streamlined government efforts to achieve the following:

- facilitate adoptions;
- provide health insurance to poor children;
- improve public education;
- reduce domestic violence, elder abuse, consumer fraud and homelessness;
- increase accessibility of childcare, movement from welfare to work, and affordable housing; and
- support community economic development.

California legal services programs further these policy initiatives and help ensure their success.

Critical shortages of legal assistance for the poor still exist.

As a society, we have never come close to meeting the legal needs of the poor. Nearly 47 percent of the state's children – 4.5 million – live at or below twice the poverty level. California's poor often require legal assistance to secure food, shelter, and a subsistence income – things most people take for granted. Even with the new Equal Access Fund, 75% to 80% of the legal needs of the poor are going unmet.

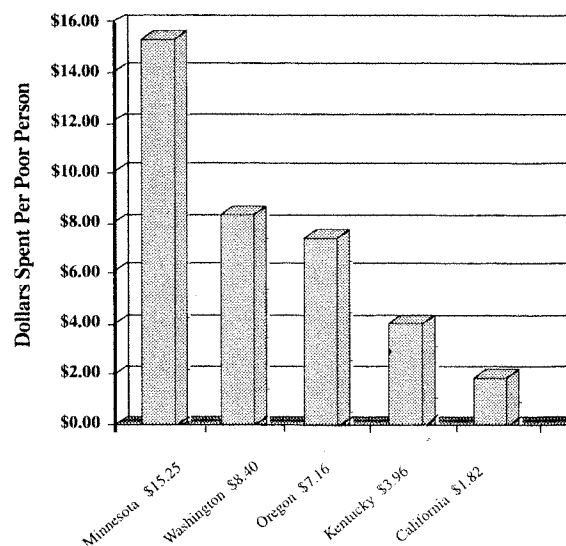
California must respond to significant cuts in Legal Services funding in recent years.

California lost over \$20 million per year in legal services funding since the early 1990's, while the number of people eligible for services increased by almost half – from 5 million in 1990 to more than 7.2 million today. Funds from the Interest on Lawyer Trust Account (IOLTA) Program plummeted from \$23 million in 1992 to \$11 million in 1999. Five years ago, federal support for California civil legal services decreased by one-third (from \$41 million to \$31 million). The \$10 million Equal Access Fund helped fill the resulting gap, but services are still down from the beginning of the decade.

The Equal Access Fund provides less than \$2 in state funding per eligible poor person.

At least 4 states spend more than \$10 per poor person, and others provide more than twice as much as California does. Even when funding levels were higher, only about a quarter of the legal need was filled. To truly meet the legal needs of California's poor would take another \$250 million to \$300 million. The initial Equal Access Funding was a critical first step toward meeting this great need – and an increase in that Fund is now needed to continue to fill the critical gap that exists.

COMPARISON OF STATE FUNDING FOR LEGAL SERVICES PER POOR PERSON



For more information, contact: Mary C. Viviano
Special Assistant for Legal Services • State Bar of California • (415) 538-2251

THE EQUAL ACCESS FUND IMPROVES THE LIVES OF INDIGENT CALIFORNIANS

Grants to 100 local and statewide legal services programs fund a vast range of help for California's indigent – legal aid that makes a real difference to real people. Low-income clients receive telephone hotline advice and self-help packets to understand their rights and solve problems early, and a lawyer to represent them when necessary. Low-income community groups receive legal advice and transactional help to bring economic development and jobs, fair housing, child care, and better schools to their neighborhoods.

Local legal aid boards set priorities for using their limited funds, expanding successful projects and launching important new work.

These are examples of some of the tens of thousands of indigent Californians being helped through projects funded by the Equal Access Fund.

CHILDREN

■ **Adoptions.** Nearly 2,000 children in foster care in Los Angeles will be adopted this year with the help of a full-time attorney and hundreds of volunteers (lawyers, law students and paralegals) who do the legal work, in an existing project expanded with these funds. This makes it possible for disadvantaged children, many of them hard to place and with special needs, to get permanent homes.

■ **Health Care.** In a Health Care Partnership for Children, attorneys teamed up with hospitals and medical centers to solve the legal problems of health care for another 750 children in foster care in Los Angeles. The attorneys handle Medi-Cal issues, get court approval for medical procedures, and address special legal needs of disabled children. The project is expanding to include poor children living with parents.

■ **Guardianship.** Over 100 guardianships allowed caregivers, mostly relatives, to stabilize the lives of San Francisco Bay Area minors who cannot live with their parents, helping prevent unnecessary foster care placements. Such services, also offered in other counties, can protect children from an abusive parent, prevent a return to an unsafe home, and ensure appropriate educational opportunities.

FAMILIES

■ **Education.** Improving the quality of public education in low-income neighborhoods is the goal of project in Los Angeles County. A "Know Your Rights" campaign teaches 2,500 children and parents to take full advantage of educational opportunities and participate in making the schools stronger. The project recently testified at the request of the school district at a hearing about legal issues that affect the need to build new schools.

■ **Domestic Violence.** Five hundred victims of domestic violence in San Bernardino County will get help from a legal advocacy project this year. The project is making special efforts to reach people who would otherwise have no help, including those in outlying areas of the county, immigrant women, ethnic minority elderly persons, and the deaf and hearing impaired. Clients often need help not only to get restraining orders, but also with their family law cases. They may face eviction because of repeated police calls, and may need to file immigration petitions under a federal law designed to protect immigrant victims of domestic violence.

SENIORS

■ **Rural Outreach.** Homebound and institutionalized elderly people in Lake and Mendocino Counties are getting legal help as the result of a

small \$6,000 grant that reaps big rewards: a ten percent increase in services makes it possible to serve those who cannot make it to a senior center to see their lawyer.

■ **Medicare.** In Los Angeles a telephone hotline that provides information and advice about legal problems related to Medicare coverage and HMO's has increased its staffing so the number of people it can serve is up about 15,000 from previous years.

■ **Alzheimer's Patients.** Low-income victims of Alzheimer's Disease and their families in Los Angeles are helped by a bilingual attorney who deals with their special legal problems. In a typical case a destitute elderly couple could not refinance their home because the wife was not competent to sign. With a court order, the husband could handle the refinance; and the couple is self-sufficient again.

■ **Home Equity Fraud.** Elderly victims of home equity fraud are the focus of both new and expanded projects. Recent dramatic increases in property values have stepped up the activities of "foreclosure specialists" who skim off home equity through refinancing schemes. In one current case, an elderly victim is fighting the loss of an estimated \$300,000 in home equity and all of her possessions just from an initial delay in paying off a \$2,400 loan.

WELFARE-TO-WORK

■ **Child Care.** A statewide support center offers legal support to poor communities to increase child care, so more parents can enter the work force. Lawyers educate low-income family day care providers and their landlords about their legal protections and responsibilities; they work to reduce zoning barriers to child care and to increase the use of tax credits for child care in new housing; and they provide information about how the ADA applies to the estimated 15 to 20 percent of children on welfare who have some degree of disability.

■ **Evening Hotline.** In Orange County a hotline that answers legal questions, provides legal advice, and makes referrals to appropriate agencies has expanded services to stay open until 8:00 four days a week to better serve the substan-

tial number of its indigent clients who work full time. Two paralegals, supervised by an attorney, are helping an extra 2000 clients a year during the evening hours.

■ **Barriers to Employment.** Low-income people often face substantial barriers when they try for a living wage job. Projects in several areas of the state have been asked for help by community-based organizations that do job training and placement to get people off welfare. Legal aid has gotten agreements from employers to hire low-income people on publicly-funded projects; has provided information about the rules for expungement of criminal records; and has run legal clinics about DMV rules for valid driver's licenses and insurance coverage.

HOUSING AND HOMELESSNESS; COMMUNITY ECONOMIC DEVELOPMENT

■ **New Enterprise.** As counsel to the West Fresno Coalition for Economic Development (a community-based group of residents in a blighted area of Fresno) legal aid provided an example to the whole state when it helped bring 250 new permanent jobs to the neighborhood in the form of a fully leased shopping center, soon to be followed by a police field operations office, a pediatric clinic, and a targeted housing improvement program. With the Equal Access Fund, a new staff unit will offer the kind of services that produced this success to low-income community groups in surrounding counties.

■ **Individual Development Accounts.** In 23 counties in northern California, one project offers legal expertise and help with complicated legal transactions to community initiatives for affordable housing, welfare-to-work transition centers, child care programs, and "living wage" job placements. One result is Individual Development Accounts that let tenants in publicly-subsidized housing earmark part of their rent payment to a savings account they can use later to buy a home, go to school, or start a business. The amounts, matched by a community organization, increase when the property is well-maintained. Tenants have an incentive to stay, and a way of building capital to reach the first rung on the ladder to economic independence.

■ **Veterans.** A client of a Homeless Veterans Project in Los Angeles suffered from a head injury and amnesia after a fall that resulted from an inner ear problem. A staff paralegal established the man's identity by researching his tattoos, which showed he had belonged to an army infantry unit. This led to his military records, an application for VA benefits and an ID that allowed him to get temporary housing, General Relief and Food Stamps, and eventually a job and a rented home. For other clients, the project helps get disability pensions, job training, vocational rehabilitation, veterans' preference for government jobs, and health care.

■ **Evictions.** In San Francisco, a project coordinates 160 volunteer *pro bono* lawyers who contribute 4,000 hours of legal work to represent low-income tenants at risk of eviction, about half of them families with children. Judging from past experience, 20 percent of the tenants will win the right to stay in their current housing and about 70 percent will settle with their landlords and be better able to find other housing and avoid becoming homeless.

■ **Affordable Housing.** A 94-unit low-income housing development in Redding was nearly uninhabitable because of years of neglect. With help from lawyers, the remaining residents were able to postpone a HUD foreclosure, find a non-profit developer to rehabilitate the buildings, and preserve the living units for very low income persons for the next 55 years.

DISABLED CHILDREN AND ADULTS

■ **Fair Housing.** Developmentally and mentally disabled individuals can consult with a lawyer about their problems with housing, including housing discrimination on the basis of a disability and land use and zoning issues that create barriers to housing for people with disabilities.

■ **Mental Health.** Children and youth with mental health needs often fall through the cracks because of confusion about services

available for evaluation and treatment. A statewide project helped get a thorough review for an 11-year-old with many psychiatric hospital admissions; the result was better control of his illness with fewer medications. A support center publishes information and answers questions from local advocates about services that can help these children with special needs.

■ **Assistive Devices.** Severely disabled people often struggle without the most basic help, either because of uncooperative vendors or unclear policies that result in denial of essential services. A statewide project enabled a man who could not speak following a stroke to get a device that allowed him to communicate, a woman to get a replacement for a defective wheelchair, and people all over the state to get prompt emergency wheelchair repairs.

COURTHOUSE HELP FOR THE UNREPRESENTED

■ **Self-Help Centers.** Low-income people who must handle their own court cases can get help filling out the paperwork, manuals with self-help instructions, and other assistance at offices based in about 20 different courthouse locations around the state. Depending on the area, clinics and/or one-on-one assistance help with family law cases, domestic violence, debt collection defense, consumer matters, landlord-tenant disputes, wage claims, and small claims court.

■ **Benefits to Courts.** Besides helping poor people, these projects produce benefits for the courts, where unrepresented litigants take extra time and need extra help. A judge reported about one project, "I can already see that people are coming in here better able to present to the court what they need and what they want." In another county the court clerk said, "[T]he services and assistance at the Center saves time for the clerks, the typed forms are really beneficial, and we just wish you were open every day."

SUPPORTERS OF THE EQUAL ACCESS FUND

LEGISLATORS

"As legislators, we believe that effective legal assistance in civil matters is clearly necessary for a stable social and economic climate."

- John Burton, Senate President Pro Tem
- Robert Hertzberg, Assembly Speaker
- Darrell Steinberg, Assembly Judiciary Committee Chairperson
- Sheila James Kuehl, Senator-elect
- Martha Escutia, Senate Judiciary Committee Chairperson
- Dion Aroner, Assembly Human Services Chairperson
- Hannah-Beth Jackson, Assembly Member

THE JUDICIARY

"Access and fairness in the courts are not abstract philosophical principles – they are basic to preserving the rule of law."

- Chief Justice Ronald M. George

"The California Judges Association ...offers its appreciation to the Governor and the Legislature for establishing the Equal Access Fund... The judges of this state are in a position, daily, to appreciate the problems of low-income litigants who need legal assistance. This investment by the state will not only benefit the public, but will expedite the work of the courts as well."

- California Judges Association

BUSINESS AND CIVIC LEADERS

"Even in a state as populous as California, a budgetary appropriation of this relatively modest amount does indeed make a real difference and speaks eloquently about our collective priorities."

- Richard Ziman
Arden Realty

- Daphna Ziman
Edwards Entertainment, Int'l
- Bruce G. Whitmore
ARCO
- John A. Schulman
Warner Bros.
- Dr. Dale R. Laurance
Occidental Petroleum
- Jay S. Wintrob
SunAmerica, Inc.
- Louis Meisinger
The Walt Disney Company

and forty-one other supporters and board members of Public Counsel and Bet Tzedek, Los Angeles

"We believe that continuation of the state's commitment to legal services for the poor is essential to the productivity and vitality of our state...The California business community recognizes the substantial economic benefits resulting from the work legal services programs do to help low-income people become financially self-sufficient."

- Karen Randall
Universal Studios
- Bruce Karatz
Kaufman & Broad Home Corp.
- John H. McGuckin, Jr.
Union Bank of California
- Bryant C. Danner
Southern California Edison
- Harvey D. Hinman
Chevron Corporation
- Stanley S. Stroup
Wells Fargo
- Jack Brigham
Hewlett-Packard
- Fred Main
California Chamber of Commerce

and several other members of California Business Community for Legal Services

SUPPORTERS OF THE EQUAL ACCESS FUND

"Legal services programs have a substantial impact on the communities where poor children are being raised, and this new Fund has been critical in allowing these services to continue and expand... Your initiative in creating the Equal Access Fund is admired around the country."

- Peter Edelman, Prof. of Law, Georgetown University Law Center

LAW ENFORCEMENT

"Legal services programs ultimately help to promote the safety and well-being of our communities by helping families move from welfare to employment, assisting them with efforts to obtain better health care and nutrition, and reducing family violence."

- Dan Terry, California Firefighters

"These programs....have a positive influence on the communities that we serve, decreasing crimes of violence and substance abuse. I believe that legal services for the poor is essential to the safety and well-being of our communities."

- Leroy D. Baca, Sheriff, Los Angeles

"As Sheriff, I am committed to restoring to victims their safety and dignity. As a lawyer, I am committed to making the justice system available to all in need of its protections. The Equal Access Fund is crucial to these efforts."

- Michael Hennessey, Sheriff, City and County of San Francisco

"This is a great program because it helps provide civil legal services to the poor throughout the State."

- Tony Rackauckas, Orange County District Attorney

"It is a daily occurrence that citizens come to the District Attorney's Office seeking legal assistance in civil matters. Unfortunately, the District Attorney is prohibited from representing individuals in civil matters. Sometimes frustration rises to a level where the danger of acting out the frustration is very real. Access to legal services for the poor who need assistance can go a long way toward peaceful dispute resolution."

- Thomas J. Orloff, Alameda County District Attorney

RELIGIOUS LEADERS

"The work of legal services lawyers avoids devastating court battles, protects the vulnerable, and assures that justice is within reach of those who otherwise could not afford an attorney. . . . [T]he Equal Access to Justice Fund is a vital component in battling these tragedies and assuring that the concerns of the less fortunate can be addressed by lawyers and our judicial system in time to save the lives that we know can still be reached."

- Cardinal Roger Mahony, Archdiocese of Los Angeles

"As leaders of religious communities around the state are aware, the need for the indigent among us to hire lawyers can be extremely important....I see often how elders are defrauded, how children need assistance, and how families struggle to keep their lives together. Being able to face these dilemmas with an attorney can often make a profound difference in the outcome."

- Rabbi Steven Z. Leder

SUPPORTERS OF THE EQUAL ACCESS FUND

"The ability of indigent people to secure competent attorneys has to rate as a major humanitarian goal...That our state under the leadership of Governor Davis has seen fit to support the Equal Access to Justice Fund makes me very proud."

- Uri D. Herscher, President, Skirball Cultural Center

"Is there a more important undertaking than to defend the defenseless and to be a voice for the voiceless?"

- Rabbi Harold M. Schulweis, Valley Beth Shalom

THE ORGANIZED BAR

"This funding supports collaborative efforts by the bar, legal services programs, and the courts to promote equal access to the civil justice system."

- Palmer Brown Madden
President, State Bar of California

"The entire society has a stake in ensuring that no one is excluded from having access to the civil justice system."

- Patricia M. Schnegg, Past President, Los Angeles County Bar Association

"Over the past 16 years, governmental funding for legal assistance to the indigent has been under constant attack and remains at an alarmingly inadequate level."

- Donald S. Gray, Past President, Orange County Bar Association

"Legal services programs...are positioned to leverage even a small number of dollars into tremendously valuable services...It is impossible to overestimate the resources that can be leveraged by this critical appropriation of funds."

- Fred W. Alvarez, President, Bar Association of San Francisco

"California's Constitution guarantees all citizens equal protection of the laws, but that promise is hollow unless all citizens have meaningful access to the courts in which those laws are administered."

- Craig G. Riemer, President, Riverside County Bar Association

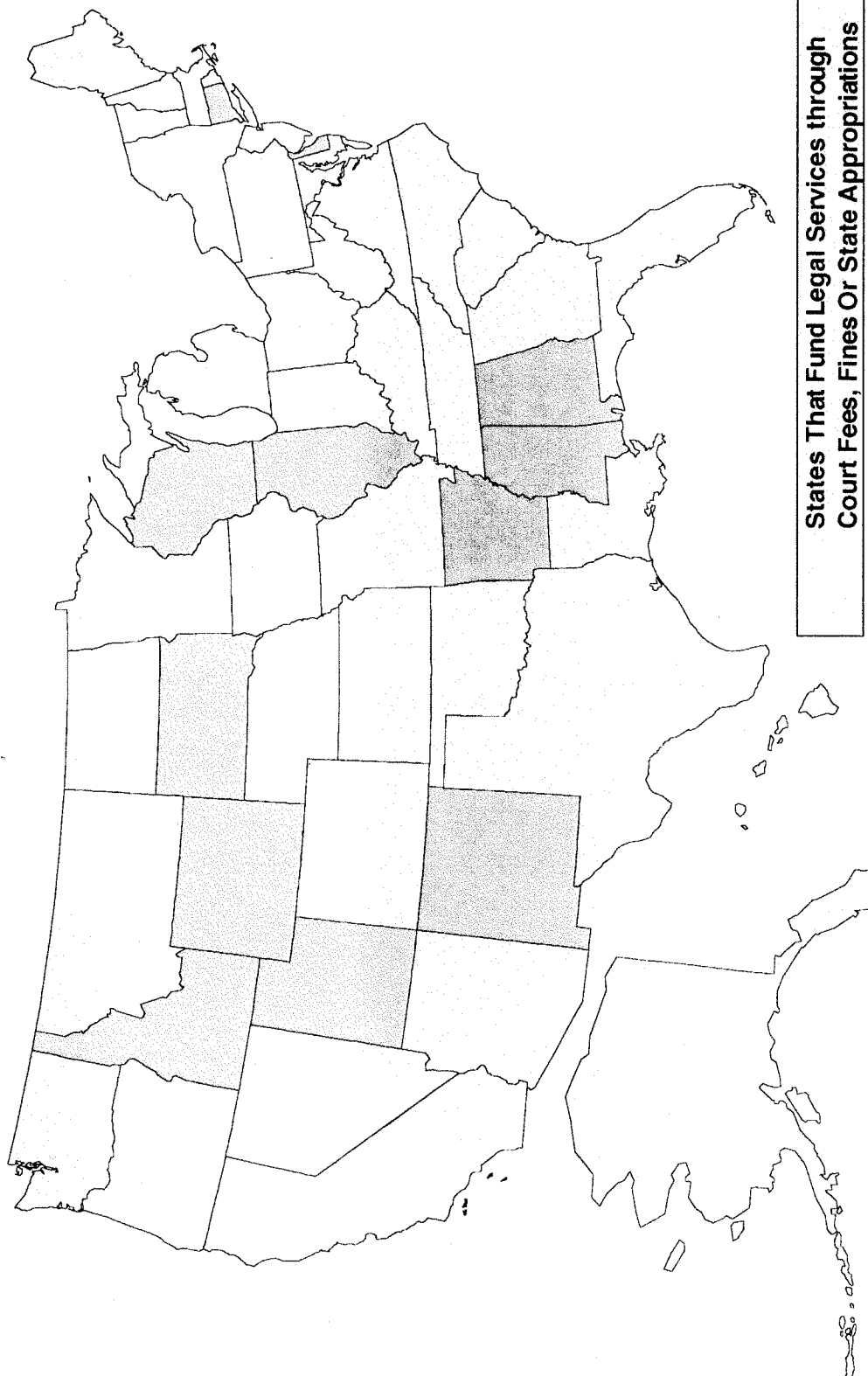
"Ensuring equal access to justice for all citizens... reflects one of the fundamental values of an ideal system of justice."

- Abby Hyman, President, San Bernardino County Bar Association

THE PUBLIC

82% of the American public supports government funding of legal services, according to a recent poll conducted by the Washington, D.C. firm of Belden Russonello & Stewart.

38 States, Including California, Currently Fund Legal Services *



States That Fund Legal Services through Court Fees, Fines Or State Appropriations

States That Provide No Funding For Legal Services **

* This chart was compiled using data provided by the Project to Expand Resources for Legal Services (PERLS), a project of the ABA Standing Committee on Legal Aid and Indigent Defendants.

** This does not include funding from IOLTA, which is present in all 50 states.

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

The broad-based California Commission on Access to Justice is dedicated to finding long-term solutions to the chronic lack of representation available for poor and moderate income Californians. The Access Commission's composition is one of its key strengths. Because improving the justice system and working to achieve equal access to that system is a societal responsibility and not an obligation of the legal profession alone, the Commission includes members of the civic, business, labor, education and religious communities.

The Commission is pursuing long-term strategies designed to make significant progress toward the goal of improving access to justice, including developing cooperative efforts among the judiciary, local bar associations, legal services providers and the broader community. The Commission is seeking both new financial resources to expand the availability of legal services advocates and pro bono attorneys as well as systemic improvements that will make the law more accessible to the poor, the near-poor and those of moderate means.

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California Attorney General

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Honorable Ronald L. Taylor

Judge of the Consolidated Superior and
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California Judges Association

Honorable Paul Boland

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United States District Court
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"Access and fairness in the courts are not abstract philosophical principles – they are basic to preserving the rule of law."

- Chief Justice Ronald M. George

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